

NIH POLICY MANUAL

7610 - ESTABLISHMENT OF OVERHEAD RATES FOR USE IN THE AWARD AND ADMINISTRATION OF CONTRACTS AND GRANTS WITH COMMERCIAL ORGANIZATIONS

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1. **Explanation of Material Transmitted:** This revision is issued to update the policies prescribing procedures for the negotiation of indirect cost rates with commercial organizations.
2. **Filing Instructions:**

Remove: NIH Manual Chapter 600-1-3.7 dated:
12/18/72

Insert: NIH Manual Chapter 7610 dated: 06/10/92
(Keep this transmittal sheet as long as any pages of this
chapter are in effect.)

PLEASE NOTE: For information on:

- Content of this chapter, contact the issuing office listed above.
- On-line information, enter this URL:
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A. Purpose:

To provide policies and assign responsibilities for (1) coordinating the establishment of overhead and related rates for NIH cost-type contracts and grants with commercial organizations, and (2) disseminating rate information.

B. References:

1. Federal Acquisition Regulation Subpart 42.7 - Indirect Cost Rates
2. Federal Acquisition Regulation Subparts 31.103 - Contracts with Commercial Organizations and 31.203 - Indirect Costs
3. Federal Acquisition Regulation Subparts 15.805-3 - Cost Analysis and 15.809 -

Forward Pricing Rate Agreements

C. Policy:

The Financial Advisory Services Branch (FASB) of the Division of Contracts and Grants (DCG) will negotiate overhead and related rate(s) with commercial organizations and will disseminate resulting rate information to NIH contracting and grants management officers. (See Appendixes 1 and 2, attached.) These rates may also be used for calculation of fixed price contract award amounts, as applicable.

D. Types of Rate Notices:

1. Negotiation Agreement - FASB, DCG, NIH, Appendix 1. This agreement is used when a provisional and/or final rates(s) have been negotiated with a contractor or grantee. Generally, the period covered by the agreement will be the contractor's/grantee's fiscal year plus an additional three months to permit the submission of a proposal for final rates and new provisional rates based on actual costs for the completed fiscal year (i.e., rate agreement period). The agreement is signed by an authorized representative of the contractor/grantee and by (or for) the Chief, FASB, DCG, NIH.
2. Notice of Provisional Rate(s) - FASB, DCG, NIH, Appendix 2. This notice contains initial provisional overhead and related rate(s) for a contractor/grantee determined unilaterally by FASB on the basis of available cost information. The notice is not signed by the contractor/grantee and is subject to change at any time.

E. Responsibilities and Procedures:

1. Contracting and Grants Management Officers
 - a. When a rate has not been published for a prospective contractor/grantee, the contracting or grants management officer will request FASB to determine a provisional overhead rate and any related rates, such as for space occupancy and fringe benefits. A lead time of 45 days should be allowed when making any such requests.
 - b. The contracting officer or grants management officer will advise FASB of any circumstances that might warrant establishment of special or off-site rates. The contracting or grants management officer will also obtain advice from FASB concerning rates to be used where a contractor/grantee begins work on a new or significantly expanded contract/grant or one requiring the occupancy of space not previously used for NIH work.
 - c. The contracting and grants management officer will brief all new cost-type contractors or grantees on the procedures to be followed in establishing a provisional indirect cost rate(s). These briefings will include advising the contractor or grantee that a copy of its rate proposal

and supporting cost data should be submitted to:

Chief, Financial Advisory Services Branch, DCG
c/o Room 1B43, Building 31
National Institutes of Health
9000 Rockville Pike
Bethesda, MD 20892

Contractors/grantees should be advised that cost data submitted in support of rate proposals should include profit and loss statements for the period covered by the proposal and the balance sheet at the period's close. If independently audited statements are not available at the time the contractor/grantee submits its overhead rate proposal, uncertified statements should accompany the proposal and independently audited statements should be submitted if/when prepared.

- d. Contracting officers shall incorporate the negotiated provisional and/or final rates by reference to an applicable Negotiation Agreement. (See FAR 42.7 and related clauses.)

2. Financial Advisory Services Branch, DCG

- a. The FASB will (1) determine provisional overhead and related rate(s) for all commercial contractors and grantees new to NIH, (2) negotiate final rates with all commercial contractors and grantees, and (3) disseminate such information to the contracting and grants management officers. The Negotiation Agreement will be signed by the Chief, FASB, and will be binding upon all NIH contracting and grants management officers. Since contracting costs such as departmental burden, fringe benefits, and space charges are distributed by some contractors/grantees through a general overhead rate and by others by separately computed rates, FASB will normally negotiate the latter rates and publish such information in rate notices.
- b. FASB will notify all current contractors and grantees, where appropriate, to submit rate proposals and supporting data to the Chief, FASB, DCG, and to the cognizant audit agency. Contractors whose contracts are completed but not administratively closed will also be notified.
- c. An index listing current contractors/grantees and the date of each organization's most recent rate agreement will be issued quarterly by FASB, DCG.

Records Retention and Disposal:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter [1743](#), Appendix 1--"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B-361), item

2600-A-4. Refer to the NIH Manual Chapter for specific disposition instructions.

Please refer to hardcopy for Appendix information.

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